IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 11146 of 2007(B)

CMA.20/2007 of DISTRICT COURT, KOTTAYAM
OS.252/2002 of MUNSIFF COURT, VAIKOM

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PETITIONER:

MOHANDAS @ BABU, S/O.VAVA, AGED 47 YEARS, VALIYATHYIL KARIYIL, AMBIKA MARKET, KUDAVECHOOR KARA, VECHOOR VILLAGE, VAIKOM, KOTTAYAM.

BY ADV. SRI.VAKKOM N.VIJAYAN
SRI.P.ANIYAN
SRI.A.S.SACHIN

RESPONDENT:

SADANANDAN, S/O.VAVA, AGED ABOUT 50 YEARS, VALIYATHAYIL KARYIL, THIRUMENY VILLAGE, THALIPARAMBA TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 11146 of 2007 B

JUDGMENT

Heard counsel for the petitioner.

2. The petitioner is the judgment debtor in O.S.No.252/02 on the file of the Munsiff's Court, Vaikom. The decree that is put in execution is an ex parte decree passed against the petitioner. Petitioner filed petition before the trial court to set aside the ex parte decree and that was dismissed. He has filed C.M.Appeal No.20/07 before the District Court, Kottayam, with a delay petition, challenging the said dismissal.

3. The grievance of the petitioner is that before the said appeal is considered by the appellate court, execution of the decree is being proceeded with and that he would be put to irreparable injury and hardship in the event of the delivery taking place even before an opportunity is afforded to him to agitate his case in C.M.Appeal

No.20/07, pending before the District Court, Kottayam. Considering the entire aspects of the case, I am of the view that the petitioner is entitled to have some relief.

4. In the result, I direct the District Judge, Kottayam to dispose of C.M.Appeal No.20/07, pending on the file of his court, positively within three months from today, as it is submitted that the said appeal is ripe for hearing. Till the said appeal is disposed of, execution of the decree in O.S.No. 252/02 on the file of the Munsiff's Court, Vaikom, shall stand stayed.

With these directions, this writ petition is disposed of.

30th March, 2007 (K.P.Balachandran, Judge)

tkv